

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

DAVID G. FOX,

Plaintiff,

vs.

Civil Action 2:12-CV-324
Judge Watson
Magistrate Judge King

DOCTOR EDDY, et al.,

Defendants.

ORDER

This matter is before the Court on *Petitioner's Motion to Reply to the Defendant's Reply in Support of Their Motion for Summary Judgment and Motion for Extension of Time to File Reply* ("Plaintiff's Motion for Leave to File a Sur-Reply"), Doc. No. 33. For the reasons that follow, Plaintiff's Motion for Leave to File a Sur-Reply is **DENIED**.

Defendants filed Defendants' Motion for Summary Judgment, Doc. No. 17, on June 15, 2012. After receiving an extension of time, see Order, Doc. No. 20, plaintiff filed a response to the motion for summary judgement on August 6, 2012. Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgement, Doc. No. 23. Defendants filed a reply on August 20, 2012, Defendants' Reply in Support of Their Motion for Summary Judgment, Doc. No. 28, and on August 28, 2012, this Court issued a Report and Recommendation recommending that defendants' motion for summary judgement be granted. Report and Recommendation, Doc. No. 29. Plaintiff now argues that he

"had not had time or total instant knowledge for rebuttal against defendant's more recent reply." *Plaintiff's Motion for Leave to File a Sur-Reply*, at 2.

Local Rule 7.2(a)(2) permits a party to file a response in opposition to a motion; the movant may thereafter file a reply. The Rule specifically provides that "[n]o additional memoranda beyond those enumerated will be permitted except upon leave of court for good cause shown." S.D. Ohio Civ. R. 7.2(a)(2). Plaintiff has not shown good cause. Additionally, plaintiff's motion is moot because the Court has already recommended that defendants' motion for summary judgment be granted. *See Report and Recommendation*, Doc. No. 29. If plaintiff is dissatisfied with that *Report and Recommendation*, he must seek review by the District Judge by filing and serving on all parties objections to the *Report and Recommendation*, specifically designating the *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Plaintiff is **ADVISED** that he has until October 13, 2012 to file objections to the *Report and Recommendation*, Doc. No. 29. *See Order*, Doc. No. 32 (granting plaintiff's motion, Doc. No. 31, for an extension of time in which to file objections).

The parties are **REMINDED** that failure to object to the *Report and Recommendation* will result in a waiver of the right to de novo review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. *See Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370

(6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

September 27, 2012

s/ Norah McCann King
Norah McCann King
United States Magistrate Judge

